

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

James Primus, #252315, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 South Carolina Department of Corrections, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

Docket No. 22-ALJ-04-0054-AP

**ORDER OF DISMISSAL**

**RECEIVED**

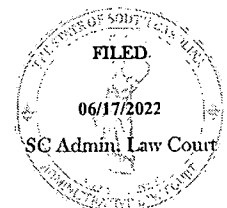
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**SC Court of Appeals**

This matter comes before the South Carolina Administrative Law Court (Court of ALJ) pursuant to an appeal filed by James Primus (Appellant), an inmate incarcerated with the South Carolina Department of Corrections (SCDC or Department).

Appellant filed a Step 1 Grievance on November 23, 2021, in which he requested his classification comply with the new classification system that went into effect on February 18, 2020. Specifically, he wanted to be classified as minimum custody to have access to certain educational and vocational programs. On December 1, 2021, the Department denied the grievance because, as a registered sex offender, Appellant was not eligible for minimum custody status.

Appellant then filed a Step 2 Grievance, asserting SCDC Policy OP 21-04, related to inmate classification, was incorrect because this Court granted a “Motion Trial instead of Plea” in a different case, Docket NO. 21-ALJ-04-0165-AP, on August 17, 2021. A review of the orders issued by this Court shows that Appellant is referencing an order issued on August 17, 2021, in which this Court granted the Department’s motion to supplement the record in a separate case in which Appellant was also a party. In the motion, the Department moved to supplement the record with Appellant’s most current sentencing sheets, including (1) a sentencing sheet for Assault and Battery of a High and Aggravated Nature (ABHAN) that was updated to reflect a trial instead of a plea, and (2) a sentencing sheet for Kidnapping that was updated to show Appellant received jail time credit from 1997 instead of 1998. Because the order referenced by Appellant in his Step 2 Grievance merely related to supplementing the record in that case, and does not relate to his classification status, the exact issue Appellant was trying to raise in his Step 2 Grievance is unclear to the Court. However, the Department treated the Step 2 Grievance as Appellant raising a concern



that Department staff were not complying with the current classification policies and procedures. The Department denied the grievance on the ground that it reviewed Appellant's file and he was properly classified.

On March 2, 2022, Appellant filed a Notice of Appeal asserting that on August 17, 2021, this Court updated his sentencing sheet to reflect that he had not pled guilty to ABHAN and ordered him to be given credit for jail time served beginning in 1997 instead of 1998. He alleges the changes were not reflected in his record in violation of SCDC Policy OP-21.04. As noted above, this Court's August 17<sup>th</sup> order did not change Appellant's sentencing sheets or jail time credits; it merely granted the Department's motion to supplement the record with updated sentencing sheets. Therefore, there are no "changes" to be reflected in Appellant's record, and it is difficult to discern how Appellant's custody status is implicated.

On April 4, 2022, Appellant filed a Motion to Grant Grievance. Although Appellant titled the document as a motion, it reads like a brief, and the Court treats it as such. In his brief, Appellant's argument is, again, difficult to discern, but it appears he contends his record contains fraudulent sentencing sheets and the Department reviewed these records in an arbitrary and capricious manner for the purpose of determining his classification status. He argues his grievance should be granted because "SDDC officials applied fraud to the facts presented in these records."

On May 19, 2022, the Department filed a Motion to Dismiss (Motion) pursuant to *Slezak* and *Skipper*<sup>1</sup> on the ground that Appellant's appeal does not implicate a state-created liberty or property interest. The Department cites to *Brown v. Evatt*, 322 S.C. 189, 194, 470 S.E.2d 848, 851 (1996), for the principle that Appellant has no liberty interest in having a particular security or custody status as long as the security or custody status does not implicate a constitutional right or exceeds the limits of his sentence.

On June 2, 2022, Appellant filed a Motion to Grant Appeal. This motion does not respond to the Department's Motion to Dismiss; rather, it is structured like a second brief. While Appellant's "motion" is difficult to follow, Appellant seems to argue that the sentencing sheets in his records are incorrect, and the Department relied on fraudulent information in his record to

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<sup>1</sup> *Slezak v. S.C. Dep't of Corr.*, 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004) ("Summary dismissal may be appropriate where the inmate's grievance does not implicate a state-created liberty or property interest."); *Skipper v. S.C. Dep't of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006).

improperly classify him. In this “motion,” Appellant notes that “with the complete autonomy SCDC give their employee 9-29-21 classification case worker Margie Prioleau change Appellant sentence sheet back to a plea.” He also alleges his ABHAN sentencing sheet was hidden in his file. Appellant further requests his case be heard “on its merits” and the record “is void of any fact indicating that the Appellant is and [sic] sex offender.” As of the date of this Order, Appellant has not filed a Response to the Motion filed by the Department.

### DISCUSSION

The Court’s jurisdiction to hear this matter is derived from the decision of the South Carolina Supreme Court in *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Court held that the ALC’s jurisdiction in inmate appeals is limited to state-created liberty interests typically involving: (1) cases in which an inmate contends that prison officials have erroneously calculated his sentence, sentence-related credits, or custody status; and (2) cases in which an inmate has received punishment in a major disciplinary hearing as a result of a serious rule violation. *Id.* at 382; 527 S.E.2d at 757. “The only way for the [ALC] to obtain subject matter jurisdiction over [an inmate’s] claim is if it implicates a state-created liberty interest.” *Sullivan v. S.C. Dep’t of Corr.*, 355 S.C. 437, 443, 586 S.E.2d 124, 127 (2003). Thus, in *Slezak v. South Carolina Department of Corrections*, our Supreme Court explained that while the ALC has jurisdiction over properly filed inmate grievance appeals, summary dismissal is appropriate “where the inmate’s grievance does not implicate a state-created liberty or property interest.” 361 S.C. 327, 331, 605 S.E.2d 506, 508 (2004), *cert. denied*, 544 U.S. 1033, 125 S.Ct. 2266, 161 L.E.2d 1060 (2005); *see also Skipper v. S.C. Dep’t of Corr.*, 370 S.C. 267, 633 S.E.2d 910 (Ct. App. 2006) (finding dismissal of inmate’s appeal appropriate because his grievance did not implicate a state-created liberty interest).

For the purpose of establishing jurisdiction, a state-created liberty or property interest exists when (1) an inmate is disciplined and punishment is imposed or (2) when an inmate alleges prison officials have erroneously calculated his sentence, sentence-related credits, or custody status. *Sullivan*, 355 S.C. at 441, 586 S.E.2d at 126. Additionally, under certain circumstances, an inmate may have a state-created liberty interest in “freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force . . . nonetheless imposes atypical and significant hardship on the inmate in relation

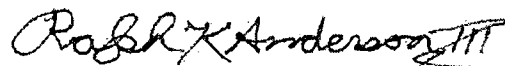
to the ordinary incidents of prison life.” *Sandin v. Conner*, 515 U.S. 472, 483-84 (1995); see *Sullivan*, 355 S.C. at 443, 586 S.E.2d at 127 (applying *Sandin* to resolve a “condition of confinement claim”).

Here, it appears Appellant’s overall concern is that his records are correct for establishing the proper custody status and he seeks to be classified as minimum custody for educational and vocational purposes. Appellant has no liberty interest in having a particular security or custody status as long as the security or custody status does not implicate a constitutional right or exceeds the limits of his sentence. *Brown v. Evatt*, 322 S.C. 189, 194, 470 S.E.2d 848, 851 (1996). Appellant has not shown that his custody status implicates a constitutional right or exceeds the limits of his sentence. *Id.*; see also *Leventis v. S.C. Dep’t of Health & Envtl. Control*, 340 S.C. 118, 133, 530 S.E.2d 643, 651 (Ct. App. 2000) (“In administrative proceedings, the general rule is that an applicant for relief, benefits, or a privilege has the burden of proof, and the burden of proof rests upon one who files a claim with an administrative agency to establish that required conditions of eligibility have been met.” (quoting 73A C.J.S. Public Administrative Law and Procedure § 128 at 35 (1983))). Therefore, Appellant has not alleged a deprivation of a state-created liberty or property interest in this matter, and summary dismissal is appropriate in this case. See *Slezak*, 361 S.C. at 331, 605 S.E.2d at 508; see also *Skipper*, 370 S.C. at 267, 633 S.E.2d at 910.

**ORDER**

**IT IS HEREBY ORDERED** that the Department’s Motion is **GRANTED**, and that this appeal is, therefore, **DISMISSED WITH PREJUDICE**.

**AND IT IS SO ORDERED.**



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Ralph King Anderson, III  
Chief Administrative Law Judge

June 17, 2022  
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Perez, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



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Stephanie Perez  
Judicial Law Clerk

June 17, 2022  
Columbia, South Carolina